IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL MISC.APPLICATION No 110 of 2002

For Approval and Signature:

Hon'ble MR.JUSTICE D.P.BUCH

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

SAJJANSINGH NAHARSINHJI CHAUHAN

Versus

STATE OF GUJARAT

Appearance:

1. Criminal Misc.Application No. 110 of 2002

MR S V Raju for Mr RJ GOSWAMI for Petitioner No. 1

Mr V M Pancholi, APP for Respondent No. 1

MS PJ DAVAWALA for Respondent No. 2

CORAM : MR.JUSTICE D.P.BUCH

Date of decision: 22/03/2002

ORAL JUDGEMENT

Rule. Mr V M Pancholi, learned APP waives service of rule for respondent no.1. Mrs P J Davawala,

learned Standing Counsel waives service of rule for respondent no.2. By consent of the learned Advocates for the parties, this application is being heard and disposed of finally.

2. This is an application for quashing the complaint being Criminal Case No.855/91 pending before the learned Addl. Chief Metropolitan Magistrate, Ahmedabad City for offences punishable under section 162 of the Companies Act, 1956. (for short, 'the Act'.)

3. It appears from the complaint at page no.1 that the said complaint was filed on the ground that the present applicant had not convened the Annual General Meeting in respect of the calendar year 1976 latest by 25.7.1976 and that usual return in the prescribed form was not filed within a period of 60 days and, therefore, an offence was committed punishable under section 162 of the said Act.

4. It is the contention of the present petitioner that he was not a Director in respect of the said Company in the year 1976 and, therefore, he was not responsible and liable to convene meetings and to furnish the relevant information as stated in the complaint and, therefore, the complaint filed against him deserves to be quashed and set aside. During the course of hearing, it has been brought to the notice of the Court that even according to the record of the Registrar of Companies, the petitioner was inducted as one of the Directors on 22.1.1977 and, therefore, prior to the said date, he was never a Director of the said company and, therefore, it clearly appears that the petitioner was not required to convene meeting or to furnish information as alleged in the complaint. In above view of the matter, the complaint filed against the petitioner is required to be quashed and the petition is required to be allowed. The learned Standing Counsel for respondent no.2 was heard and she states that there appears to be some misunderstanding on the part of the original complainant in filing the complaint. In above view of the matter, this application is allowed. The complaint filed is ordered to be set aside, qua the present applicant only. The complaint will proceed against other persons in accordance with law. Rule is made absolute to the above extent.

22.3.2002 [D P Buch, J.]
msp